

MT LEGISLATIVE HISTORY

Chapter 357 1991

Bill H _____ S 136

Original bill & hist. ✓

H. Committee on _____

S. Committee on _____

Hearing Date(s) _____ C

Hearing Date(s) _____ C

_____ C
2/13 ✓ C
_____ C

_____ C
3/14 ✓ C
_____ C

Date Out 2/20 ✓ C

3/14 ✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

SENATE BILL NO. 136

INTRODUCED BY T. BECK, WEEDING, GRADY, RANEY,
DRISCOLL, GILBERT, YELLOWTAIL
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

IN THE SENATE

JANUARY 18, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON NATURAL RESOURCES.

JANUARY 19, 1991 FIRST READING.

FEBRUARY 21, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 22, 1991 PRINTING REPORT.

FEBRUARY 23, 1991 SECOND READING, DO PASS AS AMENDED.

FEBRUARY 25, 1991 ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 40; NOES, 9.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON NATURAL RESOURCES.

FIRST READING.

MARCH 15, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 18, 1991 SECOND READING, CONCURRED IN.

MARCH 19, 1991 THIRD READING, CONCURRED IN.
AYES, 84; NOES, 14.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 23, 1991 RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 25, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *136*
 2 INTRODUCED BY *Butch Blending, Brady Roney*
 3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL
 4 *Miss M. S. S. Yellowtail*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 6 ESTABLISHMENT OF LOCAL WATER QUALITY DISTRICTS; AUTHORIZING
 7 ESTABLISHMENT OF FEES; AUTHORIZING GOVERNING BODIES OF
 8 COUNTIES, CITIES, AND TOWNS THAT PARTICIPATE IN A LOCAL
 9 WATER QUALITY DISTRICT TO ADOPT LOCAL LAWS RELATED TO WATER
 10 QUALITY PROTECTION; AUTHORIZING THE BOARD OF HEALTH AND
 11 ENVIRONMENTAL SCIENCES TO APPROVE LOCAL WATER QUALITY
 12 PROGRAMS; AND AUTHORIZING THE DEPARTMENT OF HEALTH AND
 13 ENVIRONMENTAL SCIENCES TO MONITOR IMPLEMENTATION OF LOCAL
 14 WATER QUALITY PROGRAMS."

15
 16 STATEMENT OF INTENT

17 A statement of intent is required for this bill in order
 18 to provide guidance to the board of health and environmental
 19 sciences concerning rulemaking and approval of local water
 20 quality programs. The board shall adopt rules concerning the
 21 format of local water quality programs, including the level
 22 of information necessary for a local water quality district
 23 to show that its proposed program will be consistent with
 24 Title 75, chapter 5, and that its program will be effective
 25 in protecting, preserving, and improving the quality of

1 surface water and ground water. The board of health and
 2 environmental sciences shall ensure that local water quality
 3 programs do not duplicate department of health and
 4 environmental sciences requirements and procedures relating
 5 to the regulation and permitting of waste discharge sources,
 6 enforcement of water quality standards, implementation of
 7 the nondegradation policy, or other water quality protection
 8 authorities. It is the intent of the legislature that
 9 administrative responsibilities for water quality protection
 10 be clearly allocated and, when necessary, clearly divided
 11 between the department of health and environmental sciences
 12 and a local water quality district, insofar as possible, to
 13 ensure that permitholders, permit applicants, and citizens
 14 are not subject to conflicting or duplicative requirements.
 15 Through its approval of local water quality programs, the
 16 board of health and environmental sciences shall ensure that
 17 the department of health and environmental sciences' ability
 18 to continue to administer federally delegated water quality
 19 protection programs is not impaired.

20
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 NEW SECTION. Section 1. Findings and purpose. (1)
 23 Pollution and degradation of surface water and ground water
 24 pose both immediate and long-term threats to the health,
 25 safety, and welfare of citizens of this state.

(2) Because of the expense and difficulty of ground water rehabilitation and cleanup, policies and programs to prevent ground water contamination must be implemented.

(3) The purpose of [sections 1 through 23] is to provide for the creation of local water quality districts to protect, preserve, and improve the quality of surface water and ground water.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 23], unless the context indicates otherwise, the following definitions apply:

(1) "Board of health and environmental sciences" as used in [sections 1 through 23] means the board of health and environmental sciences as provided in 2-15-2104.

(2) "Board of directors" means the board of directors provided for in [section 12] or a joint board of directors provided for in [section 21].

(3) "Commissioners" means the board of county commissioners or the governing body of a city-county consolidated government.

(4) "Family residential unit" means a single-family dwelling.

(5) "Fee-assessed units" means all real property with improvements, including taxable and tax-exempt property as shown on the property assessment records maintained by the county.

(6) "Local water quality district" means an area established with definite boundaries for the purpose of protecting, preserving, and improving the quality of surface water and ground water in the district.

NEW SECTION. Section 3. Authorization to initiate creation of a local water quality district. (1) The commissioners may initiate the creation of a local water quality district for the purpose of protecting, preserving, and improving the quality of surface water and ground water by holding a public meeting, passing a resolution of intention, providing an opportunity for owners of fee-assessed units to protest, and conducting a public hearing to hear and decide upon protests, as provided in [sections 5 through 8].

(2) A city or town may be included in the district if approved by the governing body of the city or town.

NEW SECTION. Section 4. Public meeting -- resolution of intention to create local water quality district. (1) The commissioners shall hold at least one public meeting concerning the creation of a local water quality district prior to the passage of a resolution of intention to create the district.

(2) The resolution of intention must designate:

(a) the proposed name of the district;

(b) the necessity for the proposed district;

1 (c) a general description of the territory or lands
2 included in the district, including identification of the
3 district boundaries;

4 (d) a general description of the proposed water quality
5 program;

6 (e) the initial estimated cost of the water quality
7 program; and

8 (f) the initial proposed fees to be charged.

9 NEW SECTION. Section 5. Participation of cities and
10 towns. (1) Upon passage of a resolution of intention, the
11 commissioners shall transmit a copy of the resolution to the
12 governing body of any incorporated city or town within the
13 proposed local water quality district for consideration by
14 the governing body.

15 (2) If the governing body of the city or town by
16 resolution concurs in the resolution of intention, a copy of
17 the resolution of concurrence must be transmitted to the
18 commissioners.

19 (3) If the governing body of the incorporated city or
20 town does not concur in the resolution of intention, the
21 commissioners may not include the city or town in the
22 district but may continue to develop a district that
23 excludes the city or town.

24 NEW SECTION. Section 6. Notice of resolutions of
25 intention and concurrence. (1) The commissioners shall give

1 notice of the passage of the resolution of intention and
2 resolution of concurrence, if applicable, and publish a
3 notice that:

4 (a) describes the local water quality program that
5 would be implemented in the local water quality district;

6 (b) specifies the initial proposed fees to be charged;

7 (c) designates the time and place where the
8 commissioners will hear and decide upon protests made
9 against the operation of the proposed district; and

10 (d) states that a description of the boundaries for the
11 proposed district is included in the resolution on file in
12 the county clerk's office.

13 (2) The notice must be published as provided in
14 7-1-2121 and must also be posted in three public places
15 within the boundaries of the proposed district.

16 (3) The commissioners shall mail to all owners of
17 proposed fee-assessed units, as listed in the county
18 assessor's office, a postcard that identifies the location
19 where the resolution of intention, resolution of
20 concurrence, and protest forms may be obtained.

21 NEW SECTION. Section 7. Right to protest -- procedure.

22 (1) At any time within 30 days after the date of the first
23 publication of the notice provided for in [section 6(1)], a
24 person owning a fee-assessed unit located within the
25 proposed local water quality district may make written

1 protest, on forms provided by the county clerk, against the
2 proposed district and the fees proposed to be charged.

3 (2) The protest must be in writing on the forms
4 provided by the county clerk and must be delivered to the
5 county clerk, who shall endorse on it the date the completed
6 form is received.

7 (3) Owners may file one protest per fee-assessed unit.

8 NEW SECTION. Section 8. Hearing on protest. (1) At the
9 next regular meeting of the commissioners after the
10 expiration of the time period provided for in [section 7],
11 the commissioners shall hear and decide upon all protests.
12 The commissioners' decision is final and conclusive.

13 (2) The commissioners may adjourn the hearing as
14 necessary.

15 NEW SECTION. Section 9. Sufficient protest to bar
16 proceedings. If the owners of more than 20% of the
17 fee-assessed units in the proposed district protest the
18 creation of the proposed district and the fees proposed to
19 be charged, the commissioners are barred from further
20 proceedings on the matter unless the registered voters who
21 reside within the proposed district approve the creation of
22 the district and establish the fees by approving a
23 referendum on the issue.

24 NEW SECTION. Section 10. Referendum. (1) The
25 commissioners may adopt a resolution causing a referendum to

1 be submitted to the registered voters who reside within a
2 proposed local water quality district to authorize the
3 creation of the district and establish fees.

4 (2) The referendum must state:

5 (a) the type and maximum rate of the initial proposed
6 fees that would be imposed, consistent with the requirements
7 of [section 18];

8 (b) the maximum dollar amount for a family residential
9 unit; and

10 (c) the type of activities proposed to be financed.

11 NEW SECTION. Section 11. Insufficient protest to bar
12 proceedings -- resolution creating district -- power to
13 implement local water quality program. (1) The commissioners
14 may create a local water quality district, establish fees,
15 and appoint a board of directors if the commissioners find
16 that insufficient protests have been made in accordance with
17 [section 9] or if the registered voters who reside in the
18 proposed district have approved a referendum as provided in
19 [section 10].

20 (2) To create a local water quality district, the
21 commissioners shall pass a resolution in accordance with the
22 resolution of intention introduced and passed by the
23 commissioners or with the terms of the referendum.

24 (3) The commissioners and board of directors may
25 implement a local water quality program after the program is

1 approved by the board of health and environmental sciences
2 pursuant to [section 24].

3 NEW SECTION. Section 12. Board of directors. (1)
4 Except as provided in subsections (3)(b) and (5), the
5 commissioners shall appoint a board of directors for the
6 local water quality district.

7 (2) The board of directors consists of not less than
8 five members, including one county commissioner or member of
9 the governing body of a city-county consolidated government,
10 one member from the governing body of each incorporated city
11 or town that is included in the district, and one member of
12 the county or city-county board of health.

13 (3) The remaining members of the board of directors are
14 selected from interested persons, as follows:

15 (a) from persons whose residences are distributed
16 equally throughout the district if a county is the only unit
17 of local government participating in the district; or

18 (b) through mutual agreement by all governing bodies if
19 a county and one or more incorporated cities and towns are
20 participating in the district.

21 (4) Terms of members of the board of directors are
22 staggered and, after the initial terms, are for 3 years.

23 (5) In counties that have a full-time city-county
24 health department, the city-county board of health, created
25 as authorized by 50-2-106, may be designated as the board of

1 directors for the local water quality district.

2 NEW SECTION. Section 13. Powers and duties of board of
3 directors. The board of directors of a local water quality
4 district, with the approval of the commissioners, may:

5 (1) develop a local water quality program, to be
6 submitted to the board of health and environmental sciences,
7 for the protection, preservation, and improvement of the
8 quality of surface water and ground water in the district;

9 (2) implement a local water quality program;

10 (3) administer the budget of the local water quality
11 district;

12 (4) employ personnel;

13 (5) purchase, rent, or lease equipment and material
14 necessary to develop and implement an effective program;

15 (6) cooperate or contract with any corporation,
16 association, individual, or group of individuals, including
17 any agency of the federal, state, or local governments, in
18 order to develop and implement an effective program;

19 (7) receive gifts, grants, or donations for the purpose
20 of advancing the program and acquire by gift, deed, or
21 purchase, land necessary to implement the local water
22 quality program;

23 (8) administer local ordinances that are adopted by the
24 commissioners and governing bodies of the participating
25 cities and towns and that pertain to the protection,

1 preservation, and improvement of the quality of surface
2 water and ground water;

3 (9) apply for and receive from the federal government
4 or the state government, on behalf of the local water
5 quality district, money to aid the local water quality
6 program;

7 (10) borrow money for assistance in planning or
8 refinancing a local water quality district and repay loans
9 with the money received from the established fees; and

10 (11) construct facilities that cost not more than \$5,000
11 and maintain facilities necessary to accomplish the purposes
12 of the district, including but not limited to facilities for
13 removal of water-borne contaminants; water quality
14 improvement; sanitary sewage collection, disposal, and
15 treatment; and storm water or surface water drainage
16 collection, disposal, and treatment.

17 NEW SECTION. Section 14. Powers and duties of
18 commissioners. In addition to the other powers and duties of
19 the commissioners authorized by [sections 1 through 23], the
20 commissioners may:

21 (1) adopt local ordinances in accordance with the
22 requirements of [section 24];

23 (2) establish fees;

24 (3) review and approve the annual budget of the local
25 water quality district; and

1 (4) approve the construction of facilities that cost
2 more than \$5,000 but not more than \$100,000 a year and that
3 are necessary to accomplish the purposes of [sections 1
4 through 23], including but not limited to facilities for
5 removal of water-borne contaminants; water quality
6 improvement; sanitary sewage collection, disposal, and
7 treatment; and storm water or surface water drainage
8 collection, disposal, and treatment.

9 NEW SECTION. Section 15. Implementation of program.
10 The board of directors may implement a local water quality
11 program in parts of a local water quality district before
12 the program is implemented in the district as a whole. If a
13 program is initially implemented in only a portion of a
14 district, the fees may be levied only against that part of
15 the district where the program is being implemented. As the
16 program is expanded throughout the district, each additional
17 part of the district that is covered by the program shall
18 pay the fee.

19 NEW SECTION. Section 16. Changes in district
20 boundaries. The board of directors may by resolution make
21 changes in the boundaries of a local water quality district
22 that the board determines are reasonable and proper,
23 following the same procedures of notice and hearing provided
24 in [sections 6 through 8] except that the notice provisions
25 of [section 6(3)] apply only to the owners of proposed

1 fee-assessed units in new areas that are proposed to be
 2 included in the district. If 20% of the owners of
 3 fee-assessed units in the new areas protest the inclusion in
 4 the district and the fees proposed to be charged, the board
 5 of directors is barred from further proceedings on the
 6 matter unless the registered voters who reside in the areas
 7 proposed for inclusion agree to be included in the district
 8 and accept the proposed fees by approving a referendum in
 9 accordance with the provisions of [section 10].

10 NEW SECTION. **Section 17.** Role of county attorney --
 11 contracts for legal services. The board of directors may, by
 12 agreement with the commissioners, contract with the county
 13 attorney or an attorney licensed to practice law in the
 14 state of Montana to perform legal services for the local
 15 water quality district.

16 NEW SECTION. **Section 18.** Fees -- determination of
 17 rates -- increases -- exemption for agricultural water use.

18 (1) The commissioners shall determine fee rates according to
 19 a classification system that is based upon the volume of
 20 water withdrawn and the volume and type of waste produced at
 21 each fee-assessed unit in the local water quality district.

22 (2) Fees for commercial and industrial units must be
 23 based on a comparison with a typical family residential unit
 24 as to volume of water withdrawn and volume and type of waste
 25 produced. Commercial and industrial units may be assessed

1 fees that are not greater than 50 times the fees assessed on
 2 a family residential unit.

3 (3) The commissioners may increase fees up to 10% a
 4 year by passing a resolution to establish the new fee rate.
 5 The commissioners may not approve a proposed fee increase of
 6 more than 10% a year unless notice of the proposed increase
 7 is given as provided in [section 6(1) and (2)] and
 8 opportunity for protest is provided as set forth in
 9 [sections 7 and 8]. If more than 20% of the owners of fee
 10 assessed units in the district protest, the fee increase may
 11 not be approved except through the referendum procedure
 12 provided for in [section 10].

13 (4) Water withdrawals for irrigation and livestock use
 14 and related water discharges may not be assessed fees.

15 NEW SECTION. **Section 19.** Procedure to collect fees.

16 The month the local water quality district is created
 17 pursuant to [section 11], the department of revenue or its
 18 agents shall ensure that the amount of the fees is placed on
 19 the county tax assessments for each fee-assessed unit.
 20 Unpaid fees are a lien on the fee-assessed unit and may be
 21 enforced as a lien for nonpayment of property taxes.

22 NEW SECTION. **Section 20.** Disposition and
 23 administration of proceeds. (1) All fees and other money
 24 received by a local water quality district must be placed in
 25 a separate fund maintained by the county treasurer and must

1 be used solely for the purpose for which the local water
2 quality district was created.

3 (2) The commissioners shall draw warrants upon the fund
4 on claims approved by the board of directors.

5 NEW SECTION. Section 21. Creation of joint local water
6 quality districts. (1) Joint local water quality districts
7 are districts that encompass two or more counties or parts
8 of counties.

9 (2) A joint local water quality district may be created
10 if the commissioners of each affected county:

11 (a) create the district, following the procedures
12 prescribed under [sections 3 through 11]; and

13 (b) appoint a joint board of directors that consists of
14 at least five members and that is consistent with the
15 requirement of [section 22(2)(b)], if applicable.

16 NEW SECTION. Section 22. Composition of board of
17 directors of joint district -- terms. (1) The board of
18 directors for a joint district consists of one commissioner
19 from each county involved, one member from each incorporated
20 city or town included in the district, and one member from
21 each county or city-county board of health.

22 (2) The remaining members of the joint board of
23 directors are selected from interested citizens, as follows:

24 (a) persons whose residences are distributed equally
25 throughout the district if counties are the only units of

1 government participating in the joint district; or

2 (b) through mutual agreement of all commissioners and
3 governing bodies of cities and towns participating in the
4 district.

5 (3) Terms of appointed members are staggered and, after
6 the initial terms, are for 3 years.

7 NEW SECTION. Section 23. Administration of funds in
8 joint districts. Fees and other money collected by a joint
9 local water quality district may be administered by one
10 county treasurer upon mutual agreement by the commissioners
11 of the counties participating in a joint local water quality
12 district.

13 NEW SECTION. Section 24. Local water quality districts
14 -- board approval -- local water quality programs. (1) A
15 county that establishes a local water quality district
16 according to the procedures specified in [sections 1 through
17 23] shall, in consultation with the department, undertake
18 planning and information-gathering activities necessary to
19 develop a proposed local water quality program.

20 (2) A county may implement a local water quality
21 program in a local water quality district if the program is
22 approved by the board after a hearing conducted under
23 75-5-202.

24 (3) In approving a local water quality program, the
25 board shall determine that the program is consistent with

1 the purposes and requirements of Title 75, chapter 5, and
2 that the program will be effective in protecting,
3 preserving, and improving the quality of surface water and
4 ground water, considering the administrative organization,
5 staff, and financial and other resources available to
6 implement the program.

7 (4) Subject to the board's approval, the commissioners
8 and the governing bodies of cities and towns that
9 participate in a local water quality district may adopt
10 local ordinances that:

11 (a) are compatible with, more stringent than, or more
12 extensive than the requirements imposed by 75-5-303 through
13 75-5-306 and 75-5-401 through 75-5-404 and rules adopted
14 under those sections, to protect water quality, implement
15 the nondegradation policy, enforce water quality standards,
16 regulate sources that discharge wastes into state waters,
17 establish pollutant discharge permitting requirements, and
18 ensure proper management of substances that have the
19 potential to contaminate water quality;

20 (b) provide for administrative procedures,
21 administrative orders and actions, and civil enforcement
22 actions that are consistent with 75-5-601 through 75-5-604,
23 75-5-611 through 75-5-616, 75-5-621, and 75-5-622 and rules
24 adopted under those sections;

25 (c) provide for penalties not to exceed the penalties

1 provided in 75-5-631 through 75-5-633; and

2 (d) ensure that the provisions imposed by 75-5-605 are
3 not violated.

4 (5) If the boundaries of a district are changed after
5 the board has approved the local water quality program for
6 the district, the board of directors of the local water
7 quality district shall submit a program amendment to the
8 board and obtain the board's approval of the program
9 amendment before implementing the local water quality
10 program in areas that have been added to the district.

11 (6) The department shall monitor the implementation of
12 local water quality programs to ensure that the programs are
13 adequate to protect, preserve, and improve the quality of
14 the surface water and ground water and are being
15 administered in a manner consistent with the purposes and
16 requirements of Title 75, chapter 5. If the department finds
17 that a local water quality program is not adequate to
18 protect, preserve, and improve the quality of the surface
19 water and ground water or is not being administered in a
20 manner consistent with the purposes and requirements of
21 Title 75, chapter 5, the department shall report to the
22 board.

23 (7) If the board determines that a local water quality
24 program is inadequate to protect, preserve, and improve the
25 quality of the surface water and ground water in the local

1 water quality district or that the program is being
2 administered in a manner inconsistent with Title 75, chapter
3 5, the board shall give notice and conduct a hearing on the
4 matter.

5 (8) If after the hearing the board determines that the
6 program is inadequate to protect, preserve, and improve the
7 quality of the surface water and ground water in the local
8 water quality district or that it is not being administered
9 in a manner consistent with the purposes of Title 75,
10 chapter 5, the board shall require that necessary corrective
11 measures be taken within a reasonable time, not to exceed 60
12 days.

13 (9) If the local water quality district fails to take
14 corrective measures within the time required, the department
15 shall administer within the district all of the provisions
16 of Title 75, chapter 5. The department's water quality
17 program supersedes all local water quality ordinances,
18 rules, and requirements in the affected local water quality
19 district. The cost of administering the department's water
20 quality program is a charge on the local water quality
21 district.

22 (10) If the board finds that, because of the complexity
23 or magnitude of a particular water pollution source, the
24 control of the source is beyond the reasonable capability of
25 a local water quality district or may be more efficiently

1 and economically performed at the state level, the board may
2 direct the department to assume and retain control over the
3 source. A charge may not be assessed against the local water
4 quality district for that source. Findings made under this
5 subsection may be based on the nature of the source involved
6 or on the source's relationship to the size of the community
7 in which it is located.

8 (11) A local water quality district in which the local
9 water quality program is administered by the department
10 under the provisions of subsection (9) may, with the board's
11 approval, establish or resume a local water quality program
12 that meets the requirements of subsections (1) through (4).

13 NEW SECTION. Section 25. Codification instruction. (1)
14 [Sections 1 through 23] are intended to be codified as an
15 integral part of Title 7, and the provisions of Title 7
16 apply to [sections 1 through 23].

17 (2) [Section 24] is intended to be codified as an
18 integral part of Title 75, chapter 5, and the provisions of
19 Title 75, chapter 5, apply to [section 24].

-End-

HEARING ON SB 136Presentation and Opening Statement by Sponsor:

Senator Tom Beck, District 24, presented SB 136 which came from the Environmental Quality Council (EQC). The bill allows for an act to permit local governments to establish water quality districts within their area. A Grey Bill, at the request of the Environmental Quality Council and amendments were distributed to committee members. (EXHIBIT'S #1 and #2).

Gail Kuntz, Environmental Quality Council, explained to the committee amendments included in the bill dealt with some of the ramifications of where cities would stand in regard to their water quality district. If the voters approve and/or less than 20 percent of the people disapprove, a local government would be allowed to assess fees on water withdrawal from wells and city water use, Kuntz explained. The amendments limit what local ordinances could be passed within water districts, Kuntz added.

Proponents' Testimony

Jim Carlson, Director of the Environmental Health Division of the Missoula City-County Health Department, testified in support of SB 136 as amended on the Grey Bill from the EQC. (EXHIBIT #3).

Dennis Taylor, city of Missoula, appeared in support of SB 136, but requested a minor amendment. (EXHIBIT #4).

John Arrigo, Department of Health and Environmental Sciences, appeared in support of SB 136. (EXHIBIT #5).

Jane Lopp, Flathead City-County Health Department, supported SB 136. (EXHIBIT #6).

Barry Dutton, Chairman of the Missoula Water Quality Advisory Group, submitted testimony in favor of SB 136. (EXHIBIT #7).

The Missoula County Board of Commissioners submitted testimony in favor of SB 136. (EXHIBIT #8).

Opponents' Testimony:

Peggy Parmalee, Montana Association of Conservation Districts, appeared in opposition to SB 136. (EXHIBIT #9).

Closing by Sponsor:

Senator Beck closed the hearing on SB 136 by requesting a DO PASS.

ROLL CALL

Natural Resources COMMITTEE

DATE 2-13-91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Anderson	P		
Senator Bengtson	P	A	
Senator Bianchi	P		
Senator Doherty	P		
Senator Grosfield	P		
Senator Hockett	P	A	
Senator Keating	P		
Senator Kennedy	P	A	
Senator Tveit	P	A	
Vice Chairman, Weeding	P		
Chairman, Stimatz	P		

Each day attach to minutes.

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Kate Metcalf	L&C City-County Health	SB136	✓	
Dennis M. Taylor	City of Missoula	SB136	✓	amend
Jim Carson	Missoula City-County Health	SB136	✓	
John Arnesen	Dept. Health & Env. Sci	SB136	✓	
Susan C. Bingham	DMRC / RWCC	SB10	✓	
Stan Bradshaw	MTU	SB136	✓	
Peggy Karmeloo	MT. Assoc. Cans. Dist	SB136	amend	✓
Lawrence Wetsit	Fort Peck Tribes	ST	✓	
Nancy Johnson	OTES			
Mike Stoll-Carlson	Lewis & Clark County	SB136	✓	
Hail Furrer	Epic Staff - requested by Sen. Beck	SB136		
John North	Dept. of State Lands	SB253	✓	
Peter Nielsen	1. Missoula Underfoot Act 2. Clark Fork Coalition	SB136	✓	
FRANK CROWLEY	ASARC, MT. DRYMEN MOUNTAIN LEADER GROUP	SB136	✓	
STEVE WELCH	DEPT OF STATE LANDS	SB253	✓	
Gary Armstrong	Dept of State Lands	SB136-3+78	✓	
John S. Fitzgerald	Progress Coal. Cont.	SB136	amend	
Wendy Olsen	NPRC	SB136	✓	
Steve Brown	Novanda	SB136	amend	

(Please leave prepared statement with Secretary)

Amendments to Senate Bill No. 136
First Reading Copy

Requested by Senator Beck
For the Committee on Natural Resources

Prepared by Gail Kuntz
February 7, 1991

1. Title, line 12.
Following: ";"
Strike: "AND"
2. Title, line 14.
Following: "PROGRAMS"
Insert: "; AND AMENDING SECTION 75-5-106, MCA"
3. Statement of Intent, page 2, line 1 through line 8.
Following: "water." on line 1
Strike: the remainder of line 1 through "authorities." on line 8
Insert: "The board may define by rule the types of best management practices that a local water quality district may impose upon each of the types of facilities and sources of pollution that may be regulated by local ordinances as authorized under [section 24(4)]."
4. Statement of Intent, page 2, line 19.
Following: "impaired."
Insert: "The board may also adopt rules to specify the procedures the department of health and environmental sciences shall follow pursuant to 75-5-106 to authorize a local water quality district to enforce provisions of Title 75, chapter 5."
5. Page 3, line 2.
Following: "cleanup"
Insert: "and the need to protect drinking water supplies"
6. Page 3, line 25.
Following: "county"
Insert: ", and mobile homes as defined in 15-24-201"
7. Page 4, line 4.
Following: "district"
Insert: "as authorized by [sections 1 through 23]"
8. Page 4, line 9.
Following: "ground water"
Insert: ", as provided by [sections 1 through 23],"
9. Page 7, line 1.
Following: "protest"
Strike: ", on forms provided by the county clerk,"
10. Page 7, lines 3 and 4.

Following: "writing" on line 3
Strike: "on the forms provided by the county clerk"

11. Page 7, lines 5 and 6.
Following: "date the" on line 5
Strike: "completed form"
Insert: "protest"

12. Page 7, line 12.
Strike: line 12 in its entirety

13. Page 7, lines 15 and 16.
Strike: "bar proceedings"
Insert: "require referendum"

14. Page 7, line 20.
Following: "unless"
Insert: "the commissioners submit a referendum to create the district to"

15. Page 7, line 21.
Following: "district"
Insert: "and the registered voters"

16. Page 7, line 22.
Following: "approving"
Strike: "a"
Insert: "the"

17. Page 7, line 23.
Following: "referendum"
Strike: "on the issue"

18. Page 8, line 9.
Following: "unit;"
Strike: "and"

19. Page 8, line 10.
Following: "financed"
Insert: ", including a general description of the local water quality program; and
(d) a general description of the areas included in the proposed district"

20. Page 9, line 15.
Following: "residences"
Insert: "or businesses"

21. Page 15, line 24.
Following: "residences"
Insert: "or businesses"

22. Page 17, lines 10 through 19.
Following: "ordinances" on line 10

Strike: remainder of line 10 and subsection (a) in its entirety
Insert: "to regulate the following specific facilities and sources of pollution:

- (a) onsite waste water disposal facilities;
- (b) storm water runoff from paved surfaces;
- (c) service connections between buildings and publicly owned sewer mains;
- (d) facilities that use or store halogenated and nonhalogenated solvents, including hazardous substances that are referenced in 40 CFR 261.31, United States environmental protection agency hazardous waste numbers F001 through F005, as amended; and

- (e) internal combustion engine lubricants.

(5) For the facilities and sources of pollution included in subsection (4) and consistent with the provisions of subsection (6), the local ordinances may:

- (a) be compatible with or more stringent or more extensive than the requirements imposed by 75-5-304, 75-5-305, and 75-5-401 through 75-5-404 and rules adopted under those sections to protect water quality, establish waste discharge permit requirements, and establish best management practices for substances that have the potential to pollute state waters;"

23. Page 17, line 24.

Following: "sections;"

Insert: "and"

24. Page 17, line 25 through page 18, line 3.

Strike: subsections (c) and (d) in their entirety

Insert: "(c) provide for civil penalties not to exceed \$1,000 per violation, provided that each day of violation of a local ordinance constitutes a separate violation, and criminal penalties not to exceed \$500 per day of violation or imprisonment for not more than 30 days, or both.

(6) The local ordinances authorized by this section may not:

- (a) duplicate the department's requirements and procedures relating to permitting of waste discharge sources and enforcement of water quality standards;

- (b) regulate any facility or source of pollution to the extent that the facility or source is:

- (i) required to obtain a permit or other approval from the department or is the subject of an administrative order, a consent decree, or an enforcement action pursuant to Title 75, chapter 5, part 4; Title 75, chapter 6; or Title 75, chapter 10;

- (ii) exempted from obtaining a permit or other approval from the department because the facility or source is required to obtain a permit or other approval from another state agency or is the subject of an enforcement action by another state agency; or

- (iii) the subject of an administrative order or consent decree issued pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 through 9675, as amended.

Renumber: subsequent subsections

25. Page 19, lines 13 through 21.

Following: line 12

Strike: subsection (9) in its entirety

Insert: "(11) If an ordinance adopted under this section conflicts with a requirement imposed by the department's water quality program, the department's requirement supersedes the local ordinance."

26. Page 20, lines 8 through 12.

Strike: subsection 11 in its entirety

27. Page 20, line 13.

Following: line 12

Insert: "Section 25. Section 75-5-106, MCA, is amended to read:

"75-5-106. Interagency cooperation -- enforcement authorization. (1) The council, board, and department may require the use of records of all state agencies and may seek the assistance of such agencies. State, county, and municipal officers and employees, including sanitarians and other employees of local departments of health, shall cooperate with the council, board, and department in furthering the purposes of this chapter, so far as is practicable and consistent with their other duties.

(2) The department may authorize a local water quality district established according to the provisions of [sections 1 through 23] to enforce the provisions of this chapter and rules adopted under this chapter on a case-by-case basis. If a local water quality district requests the authorization, the local water quality district shall present appropriate documentation to the department that a person is violating permit requirements established by the department or may be causing pollution, as defined in 75-5-103, of state waters or placing or causing to be placed wastes in a location where they are likely to cause pollution of state waters. The board may adopt rules regarding the granting of enforcement authority to local water quality districts."

Renumber: subsequent section

Amendments to House Bill No. 361
First Reading Copy

For the Committee on Natural Resources

Prepared by Michael S. Kakuk
January 31, 1991

1. Title, lines 6 and 7.

Following: "LATER;" on line 6

Strike: "AMENDING SECTIONS 85-2-221 AND 85-2-703, MCA;"

2. Page 1, line 11 through page 3, line 7.

Strike: sections 1, 2, and 3 in their entirety

Insert:

"NEW SECTION. Section 1. Purpose. The purpose of [section 2] is to ensure that a federal reserved water right with a priority date of July 1, 1973, or later be subject to the same process and adjudication as a federal reserved water right with a priority date before July 1, 1973.

NEW SECTION. Section 2. Federal reserved water rights with priority date of July 1, 1973, or later -- process and adjudication. (1) Under authority granted to the states by 43 U.S.C. 666, a federal reserved water right that has a priority date of July 1, 1973, or later and that is asserted by a federal agency is subject to the claim filing requirements and all other applicable requirements of the state water adjudication system provided for in Title 85, chapter 2, parts 2 and 7.

(2) At the request of a federal agency, the reserved water rights compact commission may negotiate to conclude a compact under Title 85, chapter 2, part 7, for a federal reserved water right with a priority date of July 1, 1973, or later.

(3) Whenever necessary, a water judge may reopen any decree issued pursuant to Title 85, chapter 2, to process the asserted or negotiated reserved water right."

Renumber: subsequent sections

3. Page 3, line 9.

Following: "["

Strike: "Section 3"

Insert: "Sections 1 and 2"

Following: "3]"

Strike: "is"

Insert: "are"

4. Page 3, line 11.

Following: "["

Strike: "section 3"

Insert: "sections 1 and 2"



TESTIMONY REGARDING HOUSE BILL 136 SENATE NATURAL RESOURCES
February 13, 1991 EXHIBIT NO. 3
Before Senate Natural Resources Committee DATE 2-13-91
BILL NO. SB 136

Chairman Stimatz and Honorable Committee Members:

My name is Jim Carlson. I am the Director of the Environmental Health Division of the Missoula City-County Health Department. I am here in support of Senate Bill 136 as amended on the "Gray Bill" being circulated by the Environmental Quality Council.

The City and County of Missoula are experiencing severe problems with groundwater contamination. We have several square miles of urban Missoula which are affected by chlorinated solvent contamination. Currently Mountain Water has three major wells shut down because the water in those wells exceed the Federal Drinking Water Standard. We also have two other small public water supplies which have been discontinued due to perchlorethylene contamination. Last spring 30,000 people in Missoula had to boil their water for fifteen days because of fecal bacteria contamination. The probable source of this contamination was an overflow at a city sewer lift station. In the Linda Vista Subdivision area, we have at least 15 homes which have private wells which exceed the State and Federal Standard for nitrate contamination in groundwater. These people cannot get federally insured loans to sell their homes. In the North Reserve Street area, we have two known plumes of contamination. One from a 1973 spill from the Yellowstone pipeline which is gasoline. Another has its source from the rinsing and wash down of pesticides at the county weed control office. In downtown Missoula, we have several square blocks of diesel contamination underlying the Burlington Northern refueling station. West of town we have mostly individual wells. In this area several hundred private wells are contaminated with fecal bacteria. In the 1980's 28 individual water supply wells were replaced due to a leaking underground storage tank. We have two small public water supply wells which have been abandoned for drinking water purposes due to gasoline contamination, the source of which is unknown. Below the BFI landfill, we have measured violations of the Federal and State standards of heavy metals in monitoring wells. Although I am happy to say that recent monitoring indicates this problem may have been remedied by the installation of facilities at the landfill itself.

Missoulians are very concerned about the future viability of groundwater as a source of drinking water in the Missoula valley. Missoula valley currently gets 100 percent of it's drinking water from the Missoula Aquifer which is showing the affects of years of abuse.

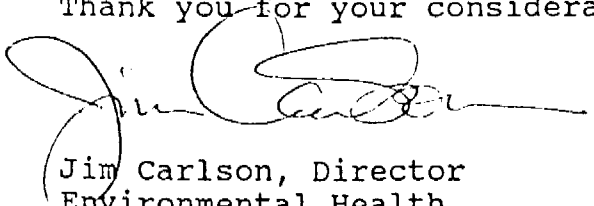
Under current state law, local government does not have the authority to take action and remedy some of the problems we have with water quality and/or enforce the Clean Water Act of the State of Montana.

Local programs have been very successful where locals have the authority to conduct research, develop public education programs, and enforce the Clean Air Act of the State of Montana. I am happy to report that those efforts have been very successful and that Missoula is on the verge of attaining air quality standards.

We need similar authority to address local problems in water quality. In President Bush's state of the union address a few weeks ago, he said "we must return to our people, cities, counties and states the power to chart their own destiny." That is what this Bill would enable local cities and towns and counties to do as a local option. The Montana Clean Water Act and the administration of that Act have not been adequate to ensure protection of groundwater resources in the State of Montana. Although this Bill as amended severely restricts broad-based authority for dealing with the variety of problems, it does allow local government to create and fund the necessary research, administration, public education and, if necessary, regulations for a restricted list of sources as required to maintain our vital water quality resources. The list of empowerment given to local government is shown in the "Gray Bill" in section 24 are adequate for us to address our local needs over the next several years.

This Bill is a compromise between a variety of concerned parties including: the mining industry, water companies, local government, state government, agricultural interests and general business interests. Montana communities cannot grow, diversify the economy, and attract businesses without being able to supply quality water at a reasonable price. It has been shown time and time again in other communities throughout the country, that an ounce of prevention in keeping clean water clean is much less expensive than trying to clean up groundwater resources after they are contaminated. This Bill as written is an appropriate method of achieving clean water standards. I urge you to pass it and give local government the opportunity to help solve our water quality problems.

Thank you for your consideration.



Jim Carlson, Director
Environmental Health

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 13 day of FEB, 1991.

Name: DENNIS M. TAYLOR

Address: CITY OF MISSOULA, 435 RYMAN,
MISSOULA MT 59802

Telephone Number: 523-4602

Representing whom?

CITY OF MISSOULA

Appearing on which proposal?

SB ~~236~~ 136

Do you: Support? X Amend? X Oppose?

Comments:

REQUEST UNDER AMENDMENT TO
REQUIRE JOINT AUTHORIZATION (CITY (COUNTY)
FOR DISTRICT WHEN DISTRICT ^{GOVERNING} BOARD'S
BOUNDARY INCLUDES THE
URBAN FRINGE AREA WITHIN
4 1/2 MILES OF THE BOUNDARIES
OF ~~TOWN~~ INCORPORATED
MUNICIPALITY.

SIMILAR LANGUAGE TO 50-60-101 (10)
(b) (iii)

SENATE NATURAL RESOURCES COMMITTEE
February 13, 1991

SENATE NATURAL RESOURCES
EXHIBIT NO. 5
DATE 2-13-91
BILL NO. SB 136

TESTIMONY ON SB136 -- AN ACT TO ESTABLISH LOCAL WATER QUALITY
DISTRICTS
PRESENTED BY -- JOHN ARRIGO, DHES WATER QUALITY BUREAU

The Department of Health and Environmental Sciences supports SB136 with the proposed amendments. Many of the typical water quality problems in Montana appear minor when viewed on a statewide basis. Seepage from a failing septic system that reaches a stream or the disposal of wastewater from a car wash near an individual domestic well may seem trivial when measured against the illegal dumping of hazardous materials at an industrial site. However, the smaller sources of pollution are not trivial to the people affected in the local area where they occur.

The amendments to SB 136 spell out the smaller sources of pollution for regulation by local water quality districts. These sources represent gaps the department is unable to effectively regulate on a statewide basis. Other priorities and staff shortages limit the department's ability to address many of the numerous and varied water quality problems that are brought to our attention.

The department's water pollution control programs are funded almost entirely by federal funds, and as such the state programs mirror federal programs. Pollution control efforts by the U.S. Environmental Protection Agency and the state focus on major sources of water pollution such as wastewater discharges to streams, hazardous waste management facilities, solid waste landfills and underground fuel storage tanks. Also, the federal government does not have a nationwide ground water pollution prevention or control program.

The department hopes that the establishment of local water quality districts will help achieve preventive approaches to pollution control. It is clear that pollution prevention is much cheaper than pollution cleanup. New directions and funding from EPA encourage states to develop ground water pollution prevention programs.

The 1986 Amendments to the Safe Drinking Water Act created the wellhead protection program. The department is developing a statewide wellhead protection program that will eventually require individual communities to inventory and manage the sources of pollution adjacent to public water supply wells in an effort to prevent pollution of those wells.

Implementation of new pollution prevention programs administered by the department will require the cooperation and assistance of local governments. The state will not be able to provide local governments with funds to develop or implement these programs. Water quality districts, as proposed under SB136, will be able to assess fees that can be used to support pollution prevention programs. The ability to fund local pollution prevention programs is a key to their success and a small investment in prevention will result in a long-term savings.



Flathead City-County Health Department

723 5th Ave. East • Kalispell, Montana 59901

Environmental Health Services 756-5632 • Community Health Services 756-5633

SENATE NATURAL RESOURCES

EXHIBIT NO. 6

DATE 2-13-91

RECALL NO. SB 136

To: Senate Natural Resources Committees

From: Flathead City-County Board of Health

TESTIMONY: SB 136

In accordance with the position statement of the Flathead City-County Board of Health adopted January 17, 1991, the Board is in full support of the proposed legislation introduced as Senate Bill 136 which will establish local water quality districts.

At this time, local government has very limited authority to take steps necessary to protect against degradation of groundwater and surface water. This Bill would enable local governments to take essential steps to accomplish the very important task of protecting two of our most valuable resources: our water, and the citizens who reside in Montana.

The proposed legislation will solve specific problems within a given jurisdiction. It is also "consumer oriented" and subject to the identified needs of the people.

The Flathead City-County Board of Health fully supports Senate Bill 136.

Respectfully submitted,

Jane Lopp, Chairperson

Jane Lopp, Chairperson



Flathead City-County Health Department

723 5th Ave. East • Kalispell, Montana 59901

Environmental Health Services 756-5632 • Community Health Services 756-5633

SENATE NATURAL RESOURCES

EXHIBIT NO. 6

ADOPTED JANUARY 17, 1991

DATE 2-13-91

BILL NO. SB 36

The Flathead City/County Board of Health supports legislation that continues coordination of all Public Health Services. This includes continued single-site organization of Personal, Community and Environmental Health Services and the resources and support services necessary for these programs and services.

The Flathead City/County Board of Health supports legislation that will enhance environmental quality and protect the public safety including the areas of Waste Management, Air and Water Quality, Subdivisions, and Underground Storage Tanks.

The Flathead City/County Board of Health supports legislation which will enhance the provision of Personal Health Services through a coordinated delivery plan. Such services would include basic immunization and disease prevention programs, nutrition services for families, family planning services and other basic Public Health Programs for our citizens regardless of ability to pay.

The Flathead City/County Board of Health supports those programs that will positively benefit the Public Health, protect the Public Safety and enhance the environmental quality of the State and support adequate funding of those programs and services by the State or through authorization of such mechanisms to local units of government that they can be adequately funded at the local level.

SENATE NATURAL RESOURCES

EXHIBIT NO. 7

DATE 2-13-91

BILL NO. SB 136

February 12, 1991

TO: Chairman and Members of the Senate Natural Resources
Committee

From: The Missoula Water Quality Advisory Group

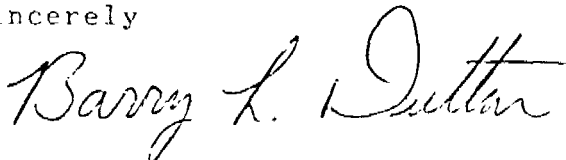
RE: SB 136 Local Water Quality Districts

Dear Chairman Stimatz and Members:

The Missoula Water Quality Advisory Group consists of hydrologists, soil scientists, water chemists, engineers, and others involved in water quality related professions. This group advises local units of government and government agencies on water quality issues.

We would like to strongly endorse SB 136 which would allow the creation of local water quality districts. This would allow important local aquifers to be protected with local citizen input and local government administration. Statewide there are many aquifers that may not need this provision but there are some where protection is essential to the long-term economy and general public health.

Sincerely



Barry L. Dutton
Chairman



BOARD OF COUNTY COMMISSIONERS
MISSOULA COUNTY COURTHOUSE
MISSOULA, MONTANA 59802

BCC-91-114
February 13, 1991

(406) 721-5700

Senator Larry Stimatz
Chairman, Senate Natural Resources Committee
Montana State Senate
Capitol Station
Helena, MT 59620

SENATE NATURAL RESOURCES
EXHIBIT NO. 8
DATE 2-13-91
BILL NO. SB 136

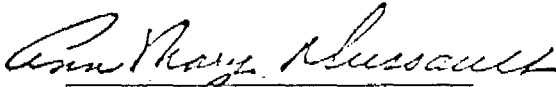
Dear Senator Stimatz,

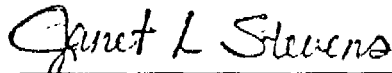
We are writing in support of SB 136, which would provide for the establishment of local Water Quality Districts, authorize establishment of fees, authorizer governing bodies that participate in a local Water Quality District to adopt local laws related to water quality protection, authorize the Board of Health and Environmental Sciences to approve the local Water Quality Programs, and authorize the Department of Health and Environmental Sciences to monitor implementation of local Water Quality Programs.

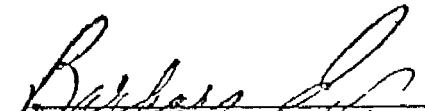
Protection of the Missoula Valley Aquifer as a viable source of clean water into the future is of utmost concern to the Missoula County Commissioners. We are speaking in favor of House Bill 136 because we see this legislation as a vehicle by which the City and County of Missoula can develop the adequate research, public education, staffing and programs to rehabilitate our aquifer and ensure it's future viability. Diversification and growth of the Missoula area economy is also one of our top priorities. We cannot attract businesses that can have their pick of hundreds of communities throughout the west, without being able to ensure them that we will take care of our air quality and water quality problems. SB 136 will help us address these very important issues. We ask that you help us and the citizens of Montana in ensuring that clean water is available to them. We urge you to pass Senate Bill 136 as legislation that is needed to achieve clean water for commerce and the public.

Sincerely,

BOARD OF COUNTY COMMISSIONERS


Ann Mary Dussault, Chair


Janet Stevens, Commissioner


Barbara Evans, Commissioner

BCC/JC:ss

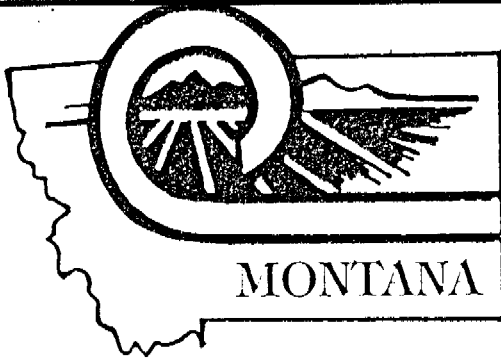


EXHIBIT NO. 9
DATE 2-13-91
BILL NO. SB 136

MONTANA

Association of Conservation Districts
501 North Sanders
Helena, MT 59601
(406) 443-5711

SB 136
February 13, 1991

My name is Peggy Parmelee and I am executive vice president of the Montana Association of Conservation Districts (MACD), representing the 59 conservation districts in Montana which are sub-divisions of state law and are local government.

Today, on behalf of MACD and the conservation districts we represent, I rise in opposition to SB 136 as it is now written.

Conservation districts do support the concept that Montana's ground and surface water is a precious commodity and it should be kept in as high a quality as possible. As areas develop, new resource problems are developing. Conservation districts are evolving right along with everything else. What I want to emphasize here is, that we do not oppose this bill because of the issue. *Believe in the future*

that is our area that is our responsibility to have
The reason we oppose the bill is that we feel that this is almost a duplication of what conservation districts by law should be doing. We were established 50 years ago, by a vote of the people in each district, to be the local agency to work with natural resource issues. At this time, conservation districts are involved in working with many different ground and surface water issues. *We have the capability to deal upon many fed. & state technical resources for best assistance*

we have
We do not believe that it is in the tax payers best interest to establish another arm of government to work on a problem that conservation districts should and could do. *Also, we believe the "back" will be more effective using an established gov. entity.*

Many folks have said that this bill is targeted to address specific problems in the Missoula and Helena areas. I agree that they do have potential severe groundwater problems in the residential areas of Missoula and I am sure that Helena is the same. But this bill does not just address residential problems in those specific areas. In talking with folks they have discussed the effect the Clark Fork River could have on the ground water in the Missoula Valley.

from a gas spill, chemical waste pollution
In reference to New Section 9, we think that this is a good idea, but also know that depending on how the proposed district lines are drawn this could put large area of agriculture, forest, mining, and so on into a district with small representation from the land managers.

non point pollution -

Will need protection, mineral logging & so on

✓ *Local agency under a new between Fed & State agreement for "Coordinated Resource Mgmt" a program to get all involved players in a working team to come to an agreement.*

Please note that in Section 24, (5), (a) it goes on to say ----and rules adopted under those sections to protect water quality, establish waste discharge permit requirements, and establish best management practices for substances that have the potential to pollute state waters.

Once again, MACD is asking you to vote against this bill as written and suggest that a working group be established to develop a program that will address the problems on a state-wide basis. If you want to just address the residential problems, this bill had also better be rewritten to indicate that.

*rethink the proposed
legislation. -*

Thank you.

Peggy Parmelee

Areas of work CD's are presently involved in -

- . Salin seep reclamation*
- . ground water monitoring*
- . admin. of the Natural Streams & Land Preservation Act of 1975 (a state law)*
- . non point pollution / fed / local level*

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Kennedy asked what consult means. Tony Grover, Solid Waste Program Manager, DHES, replied that right now the Department must only notify the county health officer of the pending solid waste licensing situation.

Senator Weeding asked what is considered to be local government and said he wondered about conservation districts. Mr. Grover replied the bill specifically addresses counties where a facility is located, and not conservation districts as they are not in the picture. He commented that municipalities would not be ruled out.

Closing by Sponsor:

Senator Beck told the Committee that the location of solid waste landfill dumps can affect many things in a community and that there should be cooperation with counties or municipalities. He asked the Committee to support the bill.

EXECUTIVE ACTION ON SB 357

Motion:

Senator Bianchi made a motion that Senate Bill 357 DO PASS.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

The motion made by Senator Bianchi carried unanimously.

EXECUTIVE ACTION ON SB 136

Motion:

Motion by Senator Weeding that SB 136 DO PASS.

Discussion:

None.

Amendments, Discussion, and Votes:

Senator Bianchi said he wanted to offer an amendment to put the conservation districts into the title.

Michael Kakuk stated that he would very much like to keep from amending the grey bill. He explained that all of the amendments the Committee has can co-exist together with minor exceptions. He further explained that the grey bill does not exist if the Committee does not adopt the large set of amendments submitted by Senator Beck. Mr. Kakuk reminded the Committee that they are also looking at Senator Grosfield's amendments (Exhibit #5).

Mr. Kakuk further advised the Committee that there are amendments requested by Dennis Taylor, Chief Administrative Officer, City of Missoula. He said Mr. Taylor would withdraw his amendment if it would cause too many problems as he wanted the bill to pass out of committee. Mr. Kakuk explained that the amendment inserts "the commissioners may not include within a local..." has been withdrawn.

Senator Bianchi asked if the grey bill is the result of extensive meetings between EQC and interested parties.

Senator Doherty made a motion to adopt the amendments in the gray bill. The motion carried unanimously.

Senator Hockett made a motion to approve amendment #1 (Senator Bianchi's amendments) to put the Board of Supervisors of Conservation Districts into the bill.

Michael Kakuk advised the Committee that this amendment would bring conservation districts into the process of establishing water quality for local district programs.

Senator Beck replied that the Board of Supervisors of Conservation Districts wanted this amendment and that it would have to be tied to 76-15-201, MCA.1.

The motion made by Senator Hockett carried unanimously.

Senator Grosfield made a motion to approve the amendments prepared by Gail Kuntz (dated February 20, 1991 - two pages).

Senator Grosfield advised the Committee that it was found that the best management practices that may be imposed on each of the facilities causing pollution are authorized in Section 24. He said this is addressed at the bottom of page 8 of the grey bill.

Mr. Kakuk explained that page 5 sets up the boundaries of the water quality district which must correspond to the area in need (pursuant to subsection (b)). Senator Grosfield said he was concerned with having a water quality area that tries to expand the boundaries for the purpose of raising taxes to cover their

costs.

Mr. Kakuk asked if the Committee was going to do anything with Amendment #5, striking "and", following "district" on page 9, line 11. He said it reappears in amendment #6, and discussed amendments #7 and #8.

Mr. Kakuk further explained that Senator Grosfield's amendment #2 conflicts with another amendment. He stated that amendment #1 (Grosfield) would repeat Senator Beck's amendments regarding Section 24, subsection (4). He advised the Committee that Senator Beck's amendment says the Board may define by rule the types of best management practices that local water quality district may impose upon the types of facilities on the source of the pollution.

Mr. Kakuk asked if the Committee is clear that by adopting Senator Grosfield's First Amendment they would replace Senator Beck's first amendments.

Senator Doherty asked why Senator Grosfield's amendments take out local water quality control districts. Senator Grosfield replied that Section 24 does not give the authority to local water quality districts but to the counties who may adopt something by ordinance. He explained that the authority is not in the district but in the county board district.

Senator Doherty asked if the qualification instructions say that Section 14 is a board of DHES. John Geach replied that board of directors means the Board of Directors of a Water Quality District.

Senator Hockett questioned amendments #6 and #7 and asked for a definition of "substantial". Michael Kakuk replied that "substantial" is not defined in the bill and said that perhaps Senator Grosfield could provide insight into the intent of that language. He commented that the Committee could clarify "substantial" if they wished.

Senator Grosfield stated that he proposed this language "because we don't know where the water quality district boundaries are going to be". He said he did not see any problems with this language and said a judge might rule that 10 or 15 percent is substantial.

Senator Bianchi asked how the Grosfield amendment fits into the other amendments.

Senator Bengtson replied that she is talking about how a district is formed and said 20 percent of taxpayers can object (bottom of page 6, gray bill).

Senator Bengtson said she believed the bill is geared to units of people and that she wondered if there was any discrepancy

between the substantial amount of land in the district.

Will Selser, Lewis and Clark City County Health Department, said he worked with Senator Beck on this bill for the last two years. He commented that the definition of "pre-assessed units" includes all of properties with improvements. Mr. Selser advised the Committee that it also caps the amount that can be multiplied against any rancher or other industry at 50 times what the rate is going to be. He explained that at \$5 per residence, the cap would be \$250.00 for ASARCO, for example.

Will Selser stated that the only problem he could see with Senator Grosfield's Amendments is that they take away the prevention focus from these water quality districts. The real purpose of the whole bill was to try to keep from having problems. It also allows for problems like Missoula has.

Senator Weeding made a motion that the Grosfield Amendments be adopted. Senator Weeding's motion was adopted.

Senator Tveit made a motion that the Beck Amendments #3 (The Atlantic Richfield Amendment) be adopted. (Exhibit 6).

Senator Tveit's motion carried.

Recommendation and Vote:

Senator Weeding moved that the bill as amended DO PASS. The motion carried unanimously.

EXECUTIVE ACTION ON SB 355

Motion:

Senator Tveit made a motion that Senate Bill 355 DO PASS with amendments.

Discussion:

Senator Tveit said SB 355 had an amendment recommended by the Department and endorsed by the sponsor.

Amendments, Discussion, and Votes:

Michael Kakuk explained that the way the law reads now is that the owner of motor fuel tanks of 1,100 gallons or less which are used for non commercial purposes are exempt or a tank used for storing heating oil of any size is exempt and what the department wants to do is to insure that the intent of the law is clear that it is only heating oil tanks 1100 gallons or less that are exempt from those inspection provisions and that is what the amendment does.

Amendments to Senate Bill No. 136
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Gail Kuntz
February 20, 1991

1. Page 7, line 23.
Following: "issue"
Insert: "by a two-thirds majority"
2. Page 8, line 18.
Following: "referendum"
Insert: "by a two-thirds majority vote"
3. Page 13, line 8.
Following: "referendum"
Insert: "by a two-thirds majority vote"

Proposed Amendment to SB 136

Atlantic Richfield
February 20, 1991

1. Page 17, proposed subparagraph (6)(b)(i), second line.
Following: "department"
Insert: "or federal government"

2. Page 17, proposed subparagraph (6)(b)(i), fourth line.
Following: "chapter 10"
Insert: "or the federal CERCLA Acts or federal
environmental safety or health statutes and regulations"

8964W

Amendments to Senate Bill No. 136
First Reading Copy

Requested by Senator Beck
For the Committee on Natural Resources

Prepared by Gail Kuntz
February 7, 1991

1. Title, line 12.

Following: ";"

Strike: "AND"

2. Title, line 14.

Following: "PROGRAMS"

Insert: "; AND AMENDING SECTION 75-5-106, MCA"

3. Statement of Intent, page 2, line 1 through line 8.

Following: "water." on line 1

Strike: the remainder of line 1 through "authorities." on line 8

Insert: "The board may define by rule the types of best management practices that a local water quality district may impose upon each of the types of facilities and sources of pollution that may be regulated by local ordinances as authorized under [section 24(4)]."

4. Statement of Intent, page 2, line 19.

Following: "impaired."

Insert: "The board may also adopt rules to specify the procedures the department of health and environmental sciences shall follow pursuant to 75-5-106 to authorize a local water quality district to enforce provisions of Title 75, chapter 5."

5. Page 3, line 2.

Following: "cleanup"

Insert: "and the need to protect drinking water supplies"

6. Page 3, line 25.

Following: "county"

Insert: ", and mobile homes as defined in 15-24-201"

7. Page 4, line 4.

Following: "district"

Insert: "as authorized by [sections 1 through 23]"

8. Page 4, line 9.

Following: "ground water"

Insert: ", as provided by [sections 1 through 23],"

9. Page 7, line 1.

Following: "protest"

Strike: ", on forms provided by the county clerk,"

10. Page 7, lines 3 and 4.

Following: "writing" on line 3
Strike: "on the forms provided by the county clerk"

11. Page 7, lines 5 and 6.
Following: "date the" on line 5
Strike: "completed form"
Insert: "protest"

12. Page 7, line 12.
Strike: line 12 in its entirety

13. Page 7, lines 15 and 16.
Strike: "bar proceedings"
Insert: "require referendum"

14. Page 7, line 20.
Following: "unless"
Insert: "the commissioners submit a referendum to create the district to"

15. Page 7, line 21.
Following: "district"
Insert: "and the registered voters"

16. Page 7, line 22.
Following: "approving"
Strike: "a"
Insert: "the"

17. Page 7, line 23.
Following: "referendum"
Strike: "on the issue"

18. Page 8, line 9.
Following: "unit;"
Strike: "and"

19. Page 8, line 10.
Following: "financed"
Insert: ", including a general description of the local water quality program; and
(d) a general description of the areas included in the proposed district"

20. Page 9, line 15.
Following: "residences"
Insert: "or businesses"

21. Page 15, line 24.
Following: "residences"
Insert: "or businesses"

22. Page 17, lines 10 through 19.
Following: "ordinances" on line 10

Strike: remainder of line 10 and subsection (a) in its entirety
Insert: "to regulate the following specific facilities and sources of pollution:

- (a) onsite waste water disposal facilities;
- (b) storm water runoff from paved surfaces;
- (c) service connections between buildings and publicly owned sewer mains;
- (d) facilities that use or store halogenated and nonhalogenated solvents, including hazardous substances that are referenced in 40 CFR 261.31, United States environmental protection agency hazardous waste numbers F001 through F005, as amended; and

- (e) internal combustion engine lubricants.

(5) For the facilities and sources of pollution included in subsection (4) and consistent with the provisions of subsection (6), the local ordinances may:

- (a) be compatible with or more stringent or more extensive than the requirements imposed by 75-5-304, 75-5-305, and 75-5-401 through 75-5-404 and rules adopted under those sections to protect water quality, establish waste discharge permit requirements, and establish best management practices for substances that have the potential to pollute state waters;"

23. Page 17, line 24.
Following: "sections;"
Insert: "and"

24. Page 17, line 25 through page 18, line 3.

Strike: subsections (c) and (d) in their entirety

Insert: "(c) provide for civil penalties not to exceed \$1,000 per violation, provided that each day of violation of a local ordinance constitutes a separate violation, and criminal penalties not to exceed \$500 per day of violation or imprisonment for not more than 30 days, or both.

(6) The local ordinances authorized by this section may not:

- (a) duplicate the department's requirements and procedures relating to permitting of waste discharge sources and enforcement of water quality standards;

- (b) regulate any facility or source of pollution to the extent that the facility or source is:

- (i) required to obtain a permit or other approval from the department or is the subject of an administrative order, a consent decree, or an enforcement action pursuant to Title 75, chapter 5, part 4; Title 75, chapter 6; or Title 75, chapter 10;

- (ii) exempted from obtaining a permit or other approval from the department because the facility or source is required to obtain a permit or other approval from another state agency or is the subject of an enforcement action by another state agency; or

- (iii) the subject of an administrative order or consent decree issued pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 through 9675, as amended.

Renumber: subsequent subsections

25. Page 19, lines 13 through 21.

Following: line 12

Strike: subsection (9) in its entirety

Insert: "(11) If an ordinance adopted under this section conflicts with a requirement imposed by the department's water quality program, the department's requirement supersedes the local ordinance."

26. Page 20, lines 8 through 12.

Strike: subsection 11 in its entirety

27. Page 20, line 13.

Following: line 12

Insert: "Section 25. Section 75-5-106, MCA, is amended to read:

"75-5-106. Interagency cooperation -- enforcement authorization. (1) The council, board, and department may require the use of records of all state agencies and may seek the assistance of such agencies. State, county, and municipal officers and employees, including sanitarians and other employees of local departments of health, shall cooperate with the council, board, and department in furthering the purposes of this chapter, so far as is practicable and consistent with their other duties.

(2) The department may authorize a local water quality district established according to the provisions of [sections 1 through 23] to enforce the provisions of this chapter and rules adopted under this chapter on a case-by-case basis. If a local water quality district requests the authorization, the local water quality district shall present appropriate documentation to the department that a person is violating permit requirements established by the department or may be causing pollution, as defined in 75-5-103, of state waters or placing or causing to be placed wastes in a location where they are likely to cause pollution of state waters. The board may adopt rules regarding the granting of enforcement authority to local water quality districts."

Renumber: subsequent section

6 John I
Amendments to Senate Bill No. 136
First Reading Copy

Requested by Senator Bianchi
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 16, 1991

1. Page 10, line 8.

Following: "district"

Strike: ";"

Insert: ". In developing the program, the board shall consult
with the board or boards of supervisors of conservation
districts, established as provided in 76-15-201, whose area
of jurisdiction is included within the boundaries of the
local water quality district."

require a loan from appropriations. The bill was sent to Appropriations so the two bills could be coordinated when SEN. HARP's bill arrived. He asked if that sounded appropriate, or if this committee should do it. Mr. Keenan said he wasn't the person to answer the question. REP. COHEN asked Mr. Keenan if he could determine how the two bills could work together. Mr. Keenan said yes.

REP. FOSTER asked Mr. Keenan if he knew SEN. HARP's opinion on amendments proposed by Trout Unlimited. Mr. Keenan said he would have to talk to the bills' sponsors to see what possibilities exist to combine the two bills. There is general agreement on the intent.

REP. COHEN asked if SB 211 caps the Environmental Quality Protection Fund or if it can continue to grow. His bill would have money above a certain level revert to the General Fund. He asked if any money in SB 211 will revert to the General Fund. Mr. Keenan said SB 211 does not cap the Environmental Quality Protection Fund. It would continue to grow, except for the amount used by the Department each year.

Closing by Sponsor: REP. RANEY said no one was available to close on the bill.

HEARING ON SB 136

Presentation and Opening Statement by Sponsor:

SEN. THOMAS BECK, SD 24 in Deer Lodge, said SB 136 would allow creation of local water quality districts. It spells out the voting procedure on how they can be established and what they can do. A number of amendments have been put into the bill that concur with almost everyone who was involved with the bill. A major hearing was held before its introduction in the Senate. The bill would give local governments authority to establish rules, through water districts, to clean up and control water pollution in their areas.

Proponents' Testimony:

Jim Carlson, Director of the Environmental Health Division of the Missoula City-County Health Department, testified in support of SB 136. He read letters of support from the Missoula Chamber of Commerce, Missoula County Board of Commissioners and Missoula Water Quality Advisory Group.

EXHIBIT 4

Will Selser, Executive Director of the Lewis and Clark City-County Health Department, said he also was testifying on behalf of the Butte-Silver Bow and Gallatin city-county health departments. He said these counties have potential threats to their aquifers. They support SB 136 because they do not want to get into the position Missoula is in. SB 136 is a consensus bill.

Amendments address all concerns. SB 136 is patterned after local air-quality standards. He read testimony from the Flathead City-County Health Department. EXHIBIT 5-5a

John Ward, owner of Litt'l John's Septic Service in Helena, supported SB 136. He said the bill will give local jurisdictions legal authority to micromanage where needed. Education is needed, as is the ability to enforce, raise money and research contamination.

Dennis Taylor, Chief Administrative Officer for the City of Missoula, supported SB 136. He said the bill is an important tool for local governments to work cooperatively to protect water quality. Missoula wants SB 136 to be amended to ensure concurrence of city and county governments when a local water quality district is established within 4.5 miles of the corporate limits of the city. Adoption of the amendment will ensure intergovernmental, community coordination and cooperation. EXHIBIT 6

Arvid Hiller, Mountain Water Co. Vice President and General Manager, said the privately owned company serves about 50,000 residents in Missoula. He stated Mountain Water Co. supports SB 136. The company has been involved in an interagency task force to protect the aquifer. More recently, the company has worked on a wellhead protection plan. A local water quality district is the vehicle to continue what the company has tried to support with its private dollars and effort with city-county government. Mountain Water Co. has no authority to regulate or enforce. It would be appropriate through the funding mechanism and SB 136 to allow local control over water quality.

John Arrigo, DHES Water Quality Bureau Groundwater Program Supervisor, said the Department supports SB 136. The agency administers the Montana Water Quality Act, which is a powerful tool to address water quality problems in the state. More often than not, the state does not address smaller water quality issues that are common statewide. Local governments do not have the authority to address these issues. SB 136 will grant this authority, and enhance pollution control and prevention.

Ted Doney, Mountain Water Co., ASARCO Inc., and Montana Dairymen's Association, said the mining industry and agriculture community support SB 136. He read from the bill, beginning on Page 18, Line 24. He said the list of local ordinances districts may adopt is the key provision in the bill. It tells districts what they can do to regulate water quality. Page 19 lists five things districts can regulate. Mining companies and agriculture are satisfied with amendments to the bill.

Kim Wilson, Clark Fork Coalition, read from a petition, which he said was signed by more than 6,000 people. It urges the Missoula City Council, City-County Board of Health and the Water Quality Bureau to protect water quality. SB 136, as drafted and amended,

will address the needs and desires of the people who signed the petitions. Prevention is less costly than clean-up. The coalition believes local control and regulatory authority is needed to deal with these problems. He urged committee support of the bill.

Peggy Parmelee, Montana Association of Conservation Districts Executive Vice President, said the association opposed the bill when it went before the Senate Natural Resources Committee. But as amended, SB 136 is acceptable to the association. It says that if a substantial amount of land in a water quality district is in a conservation district, a conservation district supervisor will be on the board of directors. She referred to Page 10, Lines 9-12; Page 11, Lines 2-8; and Page 17, Lines 9-10. SB 136 also states that in developing the program, the board of directors will consult with the conservation district board of supervisors. Section 9 requires that a referendum be approved by voters. The association believes there are many cases in which conservation districts can continue their lead role in protecting water quality without water quality districts. There are some cases, such as when water quality issues are tied to major urban areas, when a special district should be considered.

Opponents' Testimony:

John Ward said he isn't opposed to the bill, but he opposes the proposed amendment submitted by **Mr. Taylor**. EXHIBIT 6 The bill already gives cities authority over what they should have authority over.

Questions from Committee Members:

REP. O'KEEFE said county commissioners have to seek approval from the city. It doesn't say anywhere in the bill that city leaders have to seek approval from county commissioners if a water quality district is going to be established within city limits. He asked **Mr. Taylor** if that would be appropriate. **Mr. Taylor** said that would be fine with him. The idea is to get jurisdictions to work together. He anticipated a water quality district would be adopted in Missoula to include a large portion of the city and county, and for the City-County Board of Health to provide leadership. Local governing bodies do not want enabling statutes that can be used to frustrate annexation or other issues. The city of Missoula strongly supports this bill. SB 136 is a way to get resources and a cooperative program in place. There have been cases in which special single-purpose districts have been used for other purposes to frustrate the rational growth of urban areas.

REP. FOSTER asked **SEN. BECK** to address **Mr. Taylor's** proposed amendment in his closing statement.

Closing by Sponsor:

SEN. BECK said **Mr. Taylor's** amendment was denied by the Senate.

He supports the amendment proposed by Mr. Carlson and doesn't want the bill to usurp something already in the law that local governments can use. That is what his amendment addresses. The bill in its original form allowed a lot of latitude and that raised a lot of concerns. It has been amended to the satisfaction of almost everyone and will solve some of the problems that exist. He noted that REP. WANZENRIED agreed to carry the bill on the floor.

HEARING ON SB 195

Presentation and Opening Statement by Sponsor:

SEN. ESTHER BENGTON, SD 49 in Shepherd, said SB 195 was introduced on behalf of the Montana Water Users Association. It requires water-user entities to be notified of subdivision development so that laterals and canals show up on subdivision plans. The bill has been amended to address problems identified by surveyors. She read item C on Page 10 and said the language relates to major and minor subdivisions.

The bill has not met much opposition. A lot of development in cities ends up to be inappropriate. Water users want to be notified and to review plans. They would have no power to stop development, but it is in everyone's interest to have these things noted on plats. Surveyors originally objected to the bill because they often didn't know where laterals were located and the information would be required on a certificate of survey. Language was added requiring the information to be a public record, which would make it easy for them to find the information at a courthouse.

The bill establishes time frames in which this has to be accomplished so that water users cannot delay the process. She referred to Pages 12-13.

Proponents' Testimony:

Jo Brunner, Montana Water Resource Association, said buyers often do not realize that the canal running beside their property is not included in their property and shouldn't be landscaped or have a bridge built across it. A person buying an older home is less likely to be aware that a storage facility exists a mile or so away. Then a lawsuit follows. While irrigators believe these problems and others should be self-evident, that is not the case.

To date, she is unaware of any water users losing a lawsuit filed against them, but it takes time and money to defend the case. Entities are forced to budget thousands of dollars to fight legal battles. Just recognizing this in subdivision planning and surveying will not stop a lawsuit, if the party is determined to sue. But the association believes that if entities are described, it would deter many from that effort.

of conservation districts spoke for and against it. He agreed to delete the language with the understanding that the conservation district association and various districts would review the issue over the next two years and decide what they want to do.

Language on Page 8, regarding undeveloped water, means the board, if it revokes part or all of a water reservation, is returning that water back to potential use through the permitting process. That was a policy decision by the board after a test-case hearing that involved the city of Billings and Yellowstone County. An attempt in the last session was made to do the exact opposite.

SEN. BENGTON tried to pass a bill that was defeated. Subsequently, the board determined it could not voluntarily transfer the city of Billings' water to outlying subdivisions.

Proponents' Testimony:

Gary Fritz, DNRC said the board went through its 10-year review on Yellowstone water reservations and determined these clarifications were needed.

Peggy Parmelee, Montana Association of Conservation Districts, supported the bill as amended.

Jo Brunner said the Montana Water Resources Association supports the bill. Mr. Spaeth of the Montana Water Users Coalition asked her to indicate his support.

Opponents' Testimony: None.

Questions from Committee Members: None.

Closing by Sponsor:

SEN. GROSFIELD said he closed.

EXECUTIVE ACTION ON SB 136

Motion: REP. O'KEEFE MOVED SB 136 BE CONCURRED IN.

Motion: REP. RANEY moved an amendment to SB 136, which was read by Ms. Kuntz.

Discussion: Ms. Kuntz said committee members did not get a copy of the amendment. Its intent was to clarify that amendments limiting what local government can do with a water quality district will not be interpreted in the future as infringing on existing authority of local governments to protect water quality.

She read the language: "Except as expressly provided in this bill, nothing shall be deemed to limit or restrict the authority of local government to adopt rules and regulations authorized by other laws of the state."

REP. RANEY said the language will be inserted in the statement of intent section of the bill.

Vote: Motion to amend SB 136 carried unanimously.

Motion: REP. TOOLE moved to amend SB 136. EXHIBIT 6

Discussion: REP. RANEY said the amendment was proposed by the city of Missoula and addresses the 4.5 mile limit.

REP. WANZENRIED said the Lewis and Clark County Board of Health opposes the amendment. REP. O'KEEFE stated that he doesn't like the amendment unless it gives the county the same kind of approval over the city. The committee is establishing governmental agreements. There is room to participate and negotiate in this bill. He doesn't see the need for the amendment. The fact that it was killed in the Senate and in the subcommittee that worked on the bill indicates there is a lot more opposition to it. The bill is a good compromise and should be left alone.

REP. ELLISON said he agrees. All the amendment will do is get this bill into a conference committee. REP. FAGG said he agreed.

Vote: Motion carried unanimously.

Motion/Vote: REP. O'KEEFE MOVED SB 136 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

REP. RANEY said REP. WANZENRIED would carry SB 136.

EXECUTIVE ACTION ON SB 195

Discussion: REP. O'KEEFE said he would like to move to table the bill because SB 195 language was included in REP. GILBERT's subdivision bill.

REP. RANEY said he wouldn't have a problem taking the bill back off the table if it is needed. He reiterated that SB 195 language is in REP. GILBERT's bill.

Motion/Vote: REP. O'KEEFE MOVED SB 195 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 211

Discussion: REP. COHEN said he would like to wait on the bill. He spoke to Steve Pilcher, DHES Environmental Sciences Division Administrator, and others in Water Quality. They are working on some coordinating amendments for the committee. REP. RANEY agreed to wait.

EXECUTIVE ACTION ON SB 265

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 3/14/91

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓		
REP. BOB GILBERT	✓		
REP. BEN COHEN	✓		
REP. ORVAL ELLISON	✓		
REP. BOB REAM	✓		
REP. TOM NELSON	✓		
REP. VIVIAN BROOKE	✓		
REP. BEVERLY BARNHART	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. DAVID HOFFMAN	✓		
REP. DICK KNOX	✓		
REP. BRUCE MEASURE	✓		
REP. JIM SOUTHWORTH	✓		
REP. HOWARD TOOLE	✓		
REP. DAVE WANZENRIED	✓		
REP. BOB RANEY, CHAIRMAN	✓		

CS05NATRES.MAN

CLERICAL

SENATE Bill No. 136

Date: 3/18/91

Time: 3:30

(Legislative Council Staff)

☒ Natural Resources
S / (H) Standing Committee

(Chairman)

☐ S / H Committee of the Whole

(Sponsor) _____

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment #1 should read:

Insert: "Except... shall be deemed may be considered" $\uparrow \quad \uparrow \quad \uparrow$

Style

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.



TESTIMONY REGARDING HOUSE BILL 136

March 14, 1991

Before Senate Natural Resources Committee

DATE 3-14-91
SB 136

Chairman Raney and Honorable Committee Members:

My name is Jim Carlson. I am the Director of the Environmental Health Division of the Missoula City-County Health Department. With the exception of a requested addition to the statement of intent, I am here in support of Senate Bill 136 as amended in the Senate.

The City and County of Missoula are experiencing severe problems with groundwater contamination. We have several square miles of urban Missoula which are affected by chlorinated solvent contamination. Currently Mountain Water has three major wells shut down because the water in those wells exceed the Federal Drinking Water Standard. We also have two other small public water supplies which have been discontinued due to perchlorethylene contamination. Last spring 30,000 people in Missoula had to boil their water for fifteen days because of fecal bacteria contamination in Missoula's largest public well. In the Linda Vista Subdivision area, we have at least 15 homes which have private wells which exceed the State and Federal Standard for nitrate contamination in groundwater. These people cannot get federally insured loans to sell their homes. In the North Reserve Street area, we have two known plumes of contamination. One from a 1973 spill from the Yellowstone pipeline which is gasoline. Another has its source from the rinsing and wash down of pesticides at the county weed control office. In downtown Missoula, we have several square blocks of diesel contamination underlying the Burlington Northern refueling station. West of town we have mostly individual wells. In this area several hundred private wells are contaminated with fecal bacteria. In the late 1980's 28 individual water supply wells were replaced due to a leaking underground storage tank. We have two small public water supply wells which have been abandoned for drinking water purposes due to gasoline contamination, the source of which is unknown. Below the BFI landfill, we have measured violations of the Federal and State standards of heavy metals in monitoring wells.

Missoulians are very concerned about the future viability of groundwater as a source of drinking water. The Missoula valley currently gets 100 percent of it's drinking water from the Missoula Aquifer which is showing the affects of years of abuse.

The Montana Clean Water Act and the administration of that Act have not been adequate to ensure protection of groundwater resources in the State of Montana.

Under current state law, local government does not have the authority or financial resources to take action and remedy some of the problems we have with water quality and/or enforce the Clean Water Act of the State of Montana. This Bill would enable local government take an active role in water quality as a local option.

Although this Bill as amended severely restricts broad-based authority for dealing with a large variety of problems, it does allow local government to create and fund the necessary research, administration, public education and, if necessary, regulations for a restricted list of sources as required to maintain our water quality resources.

This Bill is a compromise between a variety of concerned parties including: the mining industry, water companies, local government, state government, agricultural interests and general business interests. Recently our legal council has reviewed the amendments which have been added to the bill. Their major concern with the amendments is that they could be interpreted to limit the existing powers of local government to take action under other sections of State law in the area of water quality. Bases on their review, we are proposing the following addition to the end of the statement of intent:

"Except as expressly provided in this bill, nothing in this bill shall be deemed to limit or restrict the authority of local government to adopt rules and regulations authorized by other laws of the state."

Montana communities cannot grow, diversify the economy, and attract businesses without being able to supply quality water at a reasonable price. It has been shown time and time again in other communities throughout the country, that prevention in keeping ground water clean is much less expensive than trying to clean up groundwater resources after they are contaminated. This Bill as written is an appropriate method of achieving clean water standards. I urge you to pass it and give local government the opportunity to help solve our water quality problems.

Thank you for your consideration.



Jim Carlson, Director
Environmental Health

4
Date 3/14/91
SB 136

March 13, 1991

TO: Chairman and Members of the House Natural Resources
Committee

From: The Missoula Water Quality Advisory Group

RE: SB 136 Local Water Quality Districts

Dear Chairman Rainey and Members:

The Missoula Water Quality Advisory Group consists of hydrologists, soil scientists, water chemists, engineers, and others involved in water quality related professions. This group advises local units of government and government agencies on water quality issues.

We would like to strongly endorse SB 136 which would allow the creation of local water quality districts. This would allow important local aquifers to be protected with local citizen input and local government administration. Statewide there are many aquifers that may not need this provision but there are some where protection is essential to the long-term economy and general public health.

Sincerely

Barry L. Dutton

Barry L. Dutton
Chairman

The Chamber.

MISSOULA

EX. J
3/14/91
SB 136

TO: 1991 Legislative Session
FROM: David Owen, Executive Vice President
DATE: March 14, 1991
RE: Proposed Water District

The Missoula Chamber supports legislative efforts which will allow the creation of Water Protection Districts. The Chamber believes that clean water is essential to the economic health of our community, and the creation of a District to protect ground water is an appropriate public sector function.



BCC-91-165
March 13, 1991SUBJECT 4
DATE 3/14/91
SB 136

Representative Bob Raney
Chairman, House Natural Resources Committee
Montana State House of Representatives
Capitol Station
Helena, MT 59620

Dear Representative Raney,

We are writing in support of SB 136, which would provide for the establishment of local Water Quality Districts, authorize establishment of fees, authorize governing bodies that participate in a local Water Quality District to adopt local laws related to water quality protection, authorize the Board of Health and Environmental Sciences to approve the local Water Quality Programs, and authorize the Department of Health and Environmental Sciences to monitor implementation of local Water Quality Programs.

Protection of the Missoula Valley Aquifer as a viable source of clean water into the future is of utmost concern to the Missoula County Commissioners. We are in favor of Senate Bill 136 because we see this legislation as a vehicle by which the City and County of Missoula can develop the adequate research, public education, staffing and programs to rehabilitate our aquifer and insure its future viability. Diversification and growth of the Missoula area economy is also one of our top priorities. We cannot attract businesses that can have their pick of hundreds of communities throughout the west without being able to ensure them that we will take care of our air quality and water quality problems. SB 136 will help us address these very important issues. We ask that you help us and the citizens of Montana in ensuring that clean water is available to them.

Sincerely,

BOARD OF COUNTY COMMISSIONERS


Ann Mary Dussault, Chair
Janet Stevens, Commissioner
Barbara Evans, Commissioner

DATE 3-14-91

SB 136

Flathead City-County Health Department

723 5th Ave. East • Kalispell, Montana 59901

Environmental Health Services 756-5632 • Community Health Services 756-5633



To: Bob Raney, Chairman
House Natural Resources Committee

From: Flathead City-County Board of Health

TESTIMONY: SB 136

In accordance with the position statement of the Flathead City-County Board of Health adopted January 17, 1991, the Board is in full support of the proposed legislation introduced as Senate Bill 136 which will establish local water quality districts.

At this time, local government has very limited authority to take steps necessary to protect against degradation of groundwater and surface water. This Bill would enable local governments to take essential steps to accomplish the very important task of protecting two of our most valuable resources: our water, and the citizens who reside in Montana.

The proposed legislation will solve specific problems within a given jurisdiction. It is also "consumer oriented" and subject to the identified needs of the people.

The Flathead City-County Board of Health fully supports Senate Bill 136.

Respectfully submitted,

Jane Lopp, Chairperson

Chairperson

DATE 3-14-91
SB 136**Flathead City-County Health Department**

723 5th Ave. East • Kalispell, Montana 59901

Environmental Health Services 756-5632 • Community Health Services 756-5633

ADOPTED JANUARY 17, 1991

The Flathead City/County Board of Health supports legislation that continues coordination of all Public Health Services. This includes continued single-site organization of Personal, Community and Environmental Health Services and the resources and support services necessary for these programs and services.

The Flathead City/County Board of Health supports legislation that will enhance environmental quality and protect the public safety including the areas of Waste Management, Air and Water Quality, Subdivisions, and Underground Storage Tanks.

The Flathead City/County Board of Health supports legislation which will enhance the provision of Personal Health Services through a coordinated delivery plan. Such services would include basic immunization and disease prevention programs, nutrition services for families, family planning services and other basic Public Health Programs for our citizens regardless of ability to pay.

The Flathead City/County Board of Health supports those programs that will positively benefit the Public Health, protect the Public Safety and enhance the environmental quality of the State and support adequate funding of those programs and services by the State or through authorization of such mechanisms to local units of government that they can be adequately funded at the local level.



DANIEL KEMMIS

OFFICE OF THE MAYOR

435 RYMAN MISSOULA, MT 59802-4291 (406) 523-4601 FAX: (406) 728-6690

EXH.B.T. 6

DATE 3-14-91

SB 136

Amendment to Senate Bill No. 136
Third Reading Copy

For the House Committee on Natural Resources

Prepared by Dennis M. Taylor, Chief Administrative Officer
City of Missoula
March 14, 1991

1. Page 5, line 6

Following: line 5

Insert: "(3) The Commissioners may not include within a local water quality district any portion of the area that lies within 4 1/2 miles of the corporate limits of a city or town unless the governing body of the city or town approves the inclusion of the area through interlocal agreement."

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources

COMMITTEE

BILL NO. SB 136

DATE 3/14/91

SPONSOR(S) Beck - water quality districts

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
JOHN WARD 4525 GLASS DR. HELENA MT	LITTLE JOHN'S SEPTIC SERVICE	✓	
Stan Bradshaw	MTU	✓	
Jim Carlson	Msla Co	✓	
Will Selsen	Lt County	✓	
John Arigo	DHES	✓	
Kim Wilson	Clark Fork Coal Co.	✓	
Massin Barber	P.P.A.	✓	
Richard Charles	MPAC	✓	
Devin M. Taylor	City of Missoula	✓	
Ted J. Doney	Mountain Water Company ASARCO; Montana Dairymen's Assn.	✓	
Joe Brunner	MWRG		
Jim Jensen	MEIC	✓	
Axvia M. Miller	Mountain Water Co.	✓	
Peggy Karmele	MACT	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.